

plan of action under subpart B of this part with respect to such project. In making a determination pursuant to a petition under paragraph (d) of this section, the Commissioner shall presume that the useful life of the project has not expired, and the owner shall have the burden of proof in establishing such expiration. The Commissioner may not determine that the useful life of any project has expired if such determination results primarily from failure to make regular and reasonable repairs and replacement, as became necessary. In making a determination regarding the useful life of any project pursuant to a petition submitted under paragraph (d) of this section, the Commissioner shall provide for comment by tenants of the project and interested persons and organizations with respect to the petition. The Commissioner shall also provide the tenants and interested persons and organizations with an opportunity to appeal a determination under paragraph (d) of this section.

(e) In the case of any plans of action involving incentives the owner must agree to comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); the Fair Housing Act (42 U.S.C. 3601-3619); Executive Order 11063 (3 CFR 1959-1963 comp., p. 652); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (including the Department's Accessibility Guidelines (24 CFR chapter I, subchapter A, appendix II) and all regulations issued pursuant to these authorities.

[57 FR 12041, Apr. 8, 1992, as amended at 57 FR 57314, Dec. 3, 1992; 58 FR 37815, July 13, 1993]

§ 248.147 Housing standards.

(a) *Standards.* As a condition to receiving incentives under subpart B of this part, the owner shall agree to maintain the project in accordance with local housing codes and the housing quality standards set forth in § 886.307 of this title. Where a housing quality standard conflicts with local housing codes, the owner shall maintain the project in compliance with the standard that is stricter.

(b) *Annual inspections.* The Commissioner shall inspect each project at

least annually in order to determine compliance with the housing quality standards. At least 30 days prior to the inspection, the Commissioner shall notify any tenant representatives, or if none exist, the Commissioner shall provide the owner with a notice to be posted in each affected building, stating the time and date of the inspection and advising any interested tenants that they may accompany HUD personnel on the inspection and/or submit any comments they may have on the physical condition of the project. The Commissioner shall notify the owner of any deficiencies within 30 days following the inspection. The owner shall have 90 days from the date of such notification to correct any deficiencies cited by the Commissioner and shall promptly notify the Commissioner when such deficiencies have been corrected. The Commissioner shall reinspect the project upon such notification or, if the owner does not notify the Commissioner, upon the expiration of the 90-day period.

(c) *Sanctions for noncompliance.* If the Commissioner determines, upon reinspection of the project, that the project is still not in compliance with the standards set forth in paragraph (a) of this section, the Commissioner shall take any action appropriate to bring the project into compliance, including—

(1) Directing the mortgagee, with respect to an equity take-out loan provided under part 241 of this chapter, to withhold the disbursement to the owner of any escrowed loan proceeds and requiring that such proceeds be used for repair of the project; and

(2) Reduce the amount of the allowable distributions to 4 percent of extension preservation equity or (in the case of a purchaser 4 percent of cash invested, as appropriate, for the period ending upon a determination by the Commissioner that the project is in compliance with the standards and requiring that such amounts be used for repair.

(d) *Continued compliance.* To ensure continued compliance with the standards set forth in paragraph (a) of this

section for a project subject to any action under paragraph (c) of this section, the Commissioner may limit access of and use by the owner of such amounts set forth in paragraph (c) of this section, for not more than the 2-year period beginning upon the determination that the project is in compliance with the housing standards.

(e) *Sanctions for continuous noncompliance.* If, upon inspection, the Commissioner determines that any eligible low income housing project has failed to comply with the standards established under this section for two consecutive years, the Commissioner may, upon notification to the owner of the non-compliance, take one or more of the following actions;

(1) Subject to the availability of appropriations, provide assistance, other than project-based assistance attached to the project, under part 982 of this title for any tenant eligible for such assistance who desires to terminate occupancy in the project. For each unit in the project vacated pursuant to the provision of assistance under this paragraph, the Commissioner may, notwithstanding any other law or contract for assistance, cancel the provision of project-based assistance attached to the project for one dwelling unit, if the project is receiving such assistance, or convert the project-based assistance allocation for that unit to assistance under part 982 of this title;

(2) In the case of projects for which an equity take-out loan has been made under part 241 of this chapter, direct the mortgagee to declare such a loan to be in default and accelerate the maturity date of the loan;

(3) Declare, or direct the insured mortgagee to declare, any rehabilitation loan insured or provided by the Commissioner with respect to the project, including loans provided under part 219 of this chapter, to be in default and accelerate the maturity date of the loan; and

(4) Suspend payments under or terminate any contract for project-based rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(f) *Sanctions not exclusive.* The Commissioner may take any other action authorized by law or the project regu-

latory agreement to ensure that the project will be brought into compliance with the standards established under this section or with other requirements pertaining to the condition of the project.

[57 FR 12041, Apr. 8, 1992, as amended at 64 FR 26639, May 14, 1999]

§ 248.149 Timetable for approval of a plan of action.

(a) *Notification of deficiencies.* Not later than 60 days after receipt of a plan of action, the Commissioner shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. Such notice shall describe alternative ways in which the plan may be revised to meet the criteria for approval set forth in § 248.145.

(b) *Notification of approval.* Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, but not more than 365 days, the Commissioner shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

(1) The reasons for withholding approval; and

(2) Suggestions to the owner for meeting the criteria for approval.

(c) *Opportunity to revise.* The Commissioner shall give the owner a reasonable opportunity of not more than 60 days to revise the plan of action when approval is denied. If the owner fails to comply with this time period, it shall not be eligible for relief under paragraph (d) of this section.

(d) *Delayed approval.* If the Commissioner fails to approve a plan of action within the time set forth in paragraph (b) of this section, the Commissioner shall provide incentives and assistance under subpart B of this part, to an owner who is entitled to receive such incentives and assistance, in the amount that the owner would have received if the Commissioner had complied with such time limitations. Paragraph (d) of this section does not apply to plans of action that are not approved because of deficiencies.